Remarks

Claims 1 to 75 were in the application as originally filed. Claim 76 was added by the Amendment filed August 18, 2006.

Claims 63 and 65 to 75 have been canceled by the foregoing amendments. Applicants reserve the right to pursue the subject matter of canceled Claims 63 and 65 to 75 in pending or future divisional, continuation or continuation-in-part applications.

Claim 5 has been amended to replace the term "$-S(O)_n$-alk" with "-SO-Alk, $-S(O)_2$Alk" to correct an inadvertent error.

Claim 8 has been amended to place said claim in independent form including adding the limitations from base Claim 1.

Claims 8 and 55 have been amended to delete the word "pyrindolinyl". Applicants reserve the right to prosecute the deleted subject matter in pending or future divisional, continuation or continuation-in-part applications.

Claims 1 to 6, 14, 39, 41, 42, 45, 46 and 76 have been amended to delete certain proviso language related to an hydroxamate substituted alkyl group at positions R2 and R3 of formula I.

Claim 64 has been amended to specifically refer to methods of treating rheumatoid arthritis. Support for this amendment can be found, for example, on page 54, lines 1 to 6 of the specification. Applicants reserve the right to prosecute the deleted subject matter in pending or future divisional, continuation or continuation-in-part applications.

No new matter has been added by these amendments.

As presently amended, Claims 1 to 62, 64, and 76 are pending in this application. Claims 10, 11, 51, 59, and 60 stand withdrawn from consideration as being drawn to non-elected subject matter.

35 U.S.C. § 112, first paragraph rejection

Claims 63 to 75 are rejected under 35 U.S.C. § 112, first paragraph, for allegedly being non-enabled for the stated reason that the specification, while being enabling for a method of treating a patient suffering from rheumatoid arthritis, does not reasonably provide enablement for

inhibiting the activity of protein kinase generally or a method for treating a patient suffering from or subject to a physiological condition that can be ameliorated by the administration of a protein kinase inhibitor.

Without acquiescing to the propriety of the rejection, and solely to advance prosecution, Applicants have canceled Claims 63 and 65 to 75 and have amended Claim 64 so that Claim 64 is directed to methods for treating a patient suffering from rheumatoid arthritis, which the Examiner has acknowledged is enabled. Therefore, this rejection is rendered moot and withdrawal thereof is respectfully requested.

35 U.S.C. § 112, second paragraph rejections

Claims 1 to 9, 12 to 50, 52 to 58, and 62 to 76 are rejected under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite for the following reasons:

1) Claim 1 is rejected on the grounds that the terms "alk" or "Alk" are not standard abbreviations having a definite meaning. This rejection is traversed and reconsideration and withdrawal thereof are respectfully requested for the reasons given hereinbelow.

The terms "alk" and "Alk" are often used in the art to describe alkyl groups and substituents. Moreover, Applicants have clearly defined these terms at page 8, lines 14 to 18 of the Specification: "The term "alkyl", "alk", "Alk" or "ALK" denotes a linear or branched radical containing not more than 12 carbon atoms, chosen from …". Thus, when these terms are read in light of the specification, the meanings of "Alk" and "alk" would be clear to those of ordinary skill in the art and, accordingly, no basis is seen for this rejection of Claim 1.

2) Claim 1 is rejected for allegedly lacking antecedent basis for the term imidazolylalkyl in proviso statement (a) on the grounds R2 and R3 do not include the term "imidazoylalkyl" or encompass said term.

This rejection is traversed and reconsideration and withdrawal thereof are respectfully requested for the reasons given hereinbelow.

In Claim 1, R2 and R3 are selected from hydrogen, alkyl, alkenyl, etc. Claim 1 later provides that all carbocycle, heterocycle, alkyl, etc. above may be optionally substituted with one or more substituents selected from halogen, cyano … heteroaryl, etc. Since imidazoyl is a

heteroaryl, an imidazolylalkyl is an alkyl substituted with a heteroaryl. For theses reasons, there is proper antecedent basis in Claim 1 for the proviso statement (a).

3) Claim 1 is rejected for allegedly lacking antecedent basis for the recitation "alkyl optionally interrupted with O, S or N-alk" in proviso statement (a). Initially, it is earnestly believed that the Examiner intended to reject proviso statement b) of Claim 1, and not proviso statement a). Applicants will respond to this rejection accordingly.

This rejection is believed overcome and should be withdrawn in view of the amendments to Claims 1 to 6, 14, 39, 41, 42, 45, 46, and 76 deleting the proviso encompassing the alleged indefinite phrase.

4) Claim 1 is rejected on the grounds that it is not understood what it meant by the recitation "always substituted with a hydroxamate".

This rejection is believed overcome and should be withdrawn in view of the amendments to Claims 1 to 6, 14, 39, 41, 42, 45, 46, and 76 deleting the proviso encompassing the alleged indefinite phrase.

5) Claim 1 is rejected for allegedly lacking antecedent basis for the recitation for the recitation "always substituted with a hydroxamate"

This rejection is believed overcome and should be withdrawn in view of the amendments to Claims 1 to 6, 14, 39, 41, 42, 45, 46, and 76 deleting the proviso encompassing the alleged indefinite phrase.

6) Claim 1 is rejected for allegedly lacking antecedent basis for the term "arylalkyl" in proviso statement c).

This rejection is traversed and reconsideration and withdrawal thereof are respectfully requested for the reasons given hereinbelow.

In Claim 1, R2 and R3 are selected from hydrogen, alkyl, alkenyl, etc. Claim 1 later provides that all carbocycle, heterocycle, alkyl, etc. above may be optionally substituted with one or more substituents selected from halogen, cyano ... aryl, etc., which provides antecedent basis for the term arylakyl in proviso statement c).

7) Claim 6 is rejected for allegedly lacking antecedent basis for "-OCF_3" in proviso statement a) (see page 21, lines 4-5). Initially, it is earnestly believed that the Examiner intended to reject Claim 5, and not Claim 6. Applicants will respond to this rejection accordingly.

This rejection is rendered moot in view of the amendment to Claim 5 deleting the proviso encompassing the –O-CF_3 moiety. Accordingly, withdrawal of this rejection is respectfully requested.

8) Claim 6 is rejected for allegedly lacking antecedent basis for "-$S(O)_n$-alk " in proviso statement b). Initially, it is earnestly believed that the Examiner intended to reject Claim 5, and not Claim 6. Applicants will respond to this rejection accordingly.

This rejection is believed overcome and should be withdrawn in view of the amendment to Claim 5 replacing $S(O)_n$-alk with –S(O)-alk and $S(O)_2$-alk, which are included in the definition of Y and Y1 of Claim 5.

9) Claim 8 is rejected for allegedly lacking antecedent basis in base Claim 1 for "carboxyl which is free, salified, esterfied with an alkyl radical or amidated with –NR11aR12a". This rejection is traversed and reconsideration and withdrawal thereof respectfully requested for the reasons given hereinbelow.

Claim 1 provides that "all the carbocyclyl, heterocycle, alkyl…are optionally substituted with…-C(=O)-OR9…-C(=O)-NR11R12" and the additional salts thereof. R9 can be, among others, hydrogen or alkyl, therefore providing support for an ester (–COO-alkyl) and a free carboxyl (–COOH) and the salts thereof (salified). The C(=O)-NR11R12 provides support for the amidated carboxyl. Nevertheless, Applicants have amended Claim 8 to place said claim in independent form, rendering the present rejection moot. Accordingly, withdrawal of the present rejection is respectfully requested.

10) Claim 8 is rejected on the grounds that it is not clear what structural fragment is represented by the term "pyrindolinyl".

Without acquiescing to the propriety of this rejection, and solely to advance prosecution, Claims 8 and 55 have been amended to delete the word "pyrindolinyl" from said claims. According, reconsideration and withdrawal of this rejection is respectfully requested.

11) Claim 8 is rejected for allegedly lacking antecedent basis in base Claim 1 for bicyclic groups formed from R11a and R12 having more than 7 ring members.

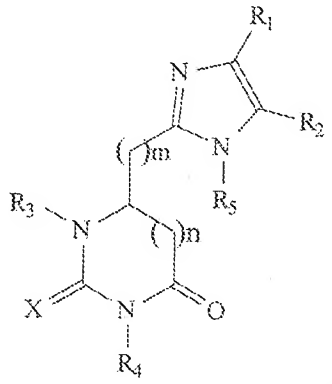
This rejection is rendered moot by the amendments to Claim 8, placing said claim in independent form. Accordingly, withdrawal of this rejection is respectfully requested.

35 U.S.C. § 103(a) rejection

Claims 1 to 9, 12 to 50, 52 to 58, 62, 64 and 72 to 76 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Poitout et al. (WO01/09090, and English equivalent U.S. 6,759,415, "Poitout") for the stated reason that Poitout teaches a generic group of 2,4-imidazolidinedione compounds.

This rejection is traversed and reconsideration and withdrawal thereof are respectfully requested for the reasons given hereinbelow.

The present invention relates to compounds that are protein kinase inhibitors, whereas the Poitout reference cited by the Examiner teaches compounds having affinity for somatostatin receptors of the general formula (I):



(I).

While acknowledging that Applicants' claims exclude the compounds of Poitout, the Examiner nevertheless maintains that the "instantly claimed compounds differ from the reference compounds by a $-CH_2$ group" (Office Action p 16). Applicants disagree.

To formulate this rejection, the Examiner does not compare Applicants' invention with any compounds actually described by Poitout, but instead picks and chooses among the numerous possibilities given by Poitout for each substituent to create a compound that allegedly differs from Applicants' claimed compounds by a $-CH_2$ group. The Examiner, however, provides no reasoning why one skilled in the art would select such substituents without the

hindsight benefit of Applicants' disclosure. In fact, every specific compound described by Poitout has a phenyl-substituted imidazoyl group, which is not encompassed by Applicants' claimed compounds. Thus, it would not be obvious to one skilled in the art to chose an imidazoylalkyl group without a phenyl substituent, and to place a further substituent (non hydrogen) at the same position as the imadazoylalkyl (the position of Applicants' R2 and R3), in addition to the other changes that would be necessary for the present obviousness rejection.

Accordingly, given that Poitout fails to teach or suggest the compounds herein claimed, and given the fact that the Poitout discloses a different mechanism of action than the present compounds, the cited reference is incompetent to teach or suggest the presently claimed compound. Therefore, the rejection of Claims 1 to 9, 12 to 50, 52 to 58, 62, 64 and 72 to 76, under 35 U.S.C. § 103(a) should be withdrawn.

Allowable subject matter

Applicants note with appreciation the allowance of Claim 62.

The Commissioner is hereby authorized to charge any additional fees which may be required by this paper, or credit any overpayment to Deposit Account No. 18-1982.

Respectfully submitted,

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Date

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